

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: [REDACTED]
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: February 28, 2013
County: Genesee (District #2)

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on February 28, 2013. Claimant appeared and testified.

ISSUE

Did the Department properly sanction Claimant's Family Independence Program (FIP) for failure to participate in employment and/or self-sufficiency related activities?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

- (1) Claimant was an ongoing recipient of Family Independence Program (FIP) benefits. Claimant was temporarily deferred from participation in the Michigan Works Agency/Jobs Education and Training Program (JET) based on a Doctor's statement that her pre-school child needed constant care due to a disability.
- (2) On November 9, 2013, Claimant and her DHS case worker had a telephone conversation during which Claimant was told that since her disabled child was attending school full time, Claimant would no longer be deferred from JET participation. (Page 13) Claimant was sent a Work First/Jobs Education and Training Appointment Notice (DHS-4785 form). The notice stated that Claimant was required to attend the Work First/Jobs Education and Training Program on November 26, 2012 or within 20 days of the date of the notice.

- (3) On December 6, 2012, Claimant had not attended JET. Claimant was sent a Notice of Non-Compliance (DHS-2444) which scheduled a triage meeting for December 12, 2012.
- (4) On December 12, 2012, Claimant attended the scheduled meeting. The Department determined there was no good cause for Claimant's failure to participate in employment and/or self-sufficiency related activities. The Department did not sanction Claimant's Family Independence Program (FIP). At the meeting Claimant signed a statement affirming that she understands the consequences of failing to attend JET. (Page 10)
- (5) On December 13, 2012, Claimant was sent a Work First/Jobs Education and Training Appointment Notice (DHS-4785 form). The notice stated that Claimant was required to attend the Work First/Jobs Education and Training Program on December 26, 2012 or within 20 days of the date of the notice.
- (6) On January 3, 2013, Claimant and her DHS case worker had a telephone conversation about her failure to attend JET. Claimant stated she did not go to JET because she went up north to spend the holidays with her parents and she would like another appointment.
- (7) On January 7, 2013, Claimant was sent a Notice of Non-Compliance (DHS-2444) which scheduled a triage meeting for January 16, 2013.
- (8) On January 16, 2013, Claimant attended the scheduled meeting. Claimant reported that she had not gone to JET because she was up north spending the holidays with her parents. The Department determined there was no good cause for Claimant's failure to participate in employment and/or self-sufficiency related activities. Claimant was informed her Family Independence Program (FIP) would close.
- (9) On January 30, 2013, Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3101-3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

BEM 233A FAILURE TO MEET EMPLOYMENT AND/OR SELF-SUFFICIENCY RELATED REQUIREMENTS: FIP

DEPARTMENT PHILOSOPHY FIP

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency-related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

DEPARTMENT POLICY FIP

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see [BEM 228](#), who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance.

See [BEM 233B](#) for the Food Assistance Program (FAP) policy when the FIP penalty is closure.

See [BEM 233B](#) for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see [BEM 233C](#).

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

- Failing or refusing to:
 - Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.
 - Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.
 - Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).
 - Comply with activities assigned to on the Family Self-Sufficiency Plan (FSSP) or PRPFC.
 - Appear for a scheduled appointment or meeting related to assigned activities.
 - Provide legitimate documentation of work participation.
 - Participate in employment and/or self-sufficiency-related activities.
 - Accept a job referral.
 - Complete a job application.
 - Appear for a job interview (see the exception below).

- Stating orally or in writing a definite intent not to comply with program requirements.

- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.

- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity. BEM 233A, pp. 1-2.

GOOD CAUSE FOR NONCOMPLIANCE

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients.

Good cause includes the following:

Illness or Injury

The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.

No Child Care

The client requested child care services from DHS, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.

- **Appropriate.** The care is appropriate to the child's age, disabilities and other conditions.
- **Reasonable distance.** The total commuting time to and from work and the child care facility does not exceed three hours per day.
- **Suitable provider.** The provider meets applicable state and local standards. Also, unlicensed providers who are not registered/licensed by the DHS Bureau of Children and Adult Licensing must meet DHS enrollment requirements; see BEM 704.
- **Affordable.** The child care is provided at the rate of payment or reimbursement offered by DHS.

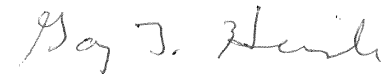
At this hearing Claimant admitted that she did not attend JET as directed. Claimant testified that she did not get the Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) until after she was up north. The Good Cause section of BEM 233A was reviewed during this hearing and Claimant was informed that going on vacation was not one of the reasons given in policy. At that point Claimant asserted that her disabled child was out of school for the holidays so she (Claimant) had to be with her the whole time. Claimant's situation does not fit the lack of child care circumstances identified as Good Cause in Department policy. Claimant then asserted that her child is disabled and so the previous Doctor's note should cover the situation. Claimant was asked if she had any current medical documentation addressing the time period at issue. Claimant said she did not but could get some. Claimant was informed that this was the date and time for the hearing and that no accommodation would be made for her to get additional evidence.

The totality of evidence in this record combined with Claimant's participation in this hearing indicate a complete lack of sincerity or credibility on her part. Evidence presented at this hearing is not sufficient to establish that Claimant had good cause in accordance with Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department properly sanctioned Claimant's Family Independence Program (FIP) for failure to participate in employment and/or self-sufficiency related activities.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.



Gary F. Heisler
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: March 1, 2013

Date Mailed: March 4, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

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GFH/db

cc:

